

REMARKS

The outstanding office action is labeled as a notice of non-compliant amendment. The basis for the assertion of non-compliance is the failure to respond to the obviousness-type double patenting rejections. Applicants respectfully traverse.

The obviousness-type double patenting rejection in the office action mailed March 18, 2008 was a “**provisional double patenting rejection**” because the basis of the rejection was the claims in a pending application. This is appropriate since it is at present unknown which claims, if any, will issue as a patent based on the cited patent application. Furthermore, the claims that may issue in the present application can not be known with certainty. Accordingly, Applicants’ response to this rejection was itself properly provisional in nature.

Notwithstanding that applicants believe their prior reply was fully responsive, applicants hereby further state that they will consider the preparation and filing of an appropriate Terminal Disclaimer upon an indication of allowable subject matter in the present application. Until that time, applicants can not agree to terminally disclaim the subject matter of the patent that will issue in the present application since the scope of that subject matter will not be known with certainty. When allowable subject matter is identified in the present application, applicants will consider the propriety of a Terminal Disclaimer at that time.

The Examiner is invited to contact the undersigned by telephone at the number indicated below if there is any continuing concern about whether applicant has been fully responsive to the provisional rejection.

Applicant(s): Christine Wild, et al.
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If there are any additional charges, the Examiner is authorized to charge applicants' Deposit Account No. 50-1943.

Respectfully submitted,

Date: December 19, 2008

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